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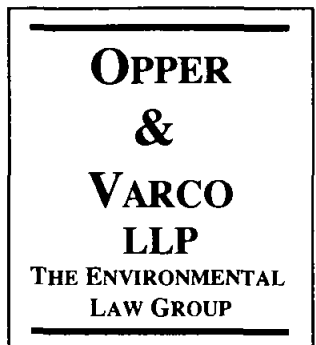
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SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

2008 APR 14 A 10:36

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

April 11, 2008
2008 APR 14 A 10:36



Michael P. McCann
Assistant Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

**Re: Complaint No. R9-2008-0019 For Administrative Liability With
Mandatory Minimum Penalties.**

Dear Mr. McCann:

As you know, on March 14, 2008 you signed Complaint No. R9-2008-0019 for Administrative Civil Liability ("Complaint"), which named William and Heidi Dickerson, and Perry & Papenhausen Construction, Inc ("Parties"). Your forwarding letter set a tentative hearing date for June 11, 2008 and requested twenty copies of any written materials by May 16, 2008. For the reasons summarized below, I am writing to ask that you extend the hearing to the date when the Regional Water Quality Control Board meets in August, 2008.

The Complaint alleges that, well over a year ago, copper discharges from dewatering efforts at 501 First Street violated Order 2000-90 and, in turn, triggered the penalty provisions of Cal. Wat. Code § 13385(h). The hearing on this Complaint will directly affect the legal rights of the Parties and, as such, due process demands that the Parties be given a fair opportunity to contest the allegations and provide evidence to support a defense. Indeed, Cal. Wat. Code § 13385(j) sets forth defenses to the penalties alleged in the Complaint including, among others, a defense covering effluent violations caused by the intentional acts of third persons.

In order to contest the Complaint and prove defenses, the Parties must undertake a complex analysis and evaluation. Such analysis will require a review of the concentration of copper that exists in San Diego Bay, the discharges of copper into the Bay, the dewatering process at issue, the laboratory methods capable of accurately detecting copper in salt water, and other technical analyses.

The administrative record supporting the Complaint does not include any of this information. Thus, I have prepared and recently delivered a request for public records inspection, pursuant to the California Public Records Act, seeking information related to copper discharges to San Diego Bay. For your ease of reference, I attached the request.

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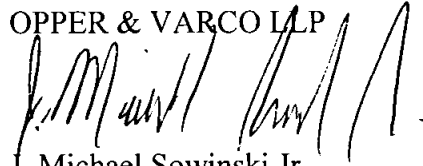
Mr. McCann
April 11, 2008
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A May 16, 2008 deadline simply does not provide sufficient time to contest allegations and prove defenses in this matter. If forced to come before the RWQCB under the current schedule, the parties will be denied a fair opportunity to be heard. The need for additional time is also supported by the fact that any appeal sought by the Parties will be limited to the administrative record. The Parties deserve a fair opportunity to prepare a comprehensive record.

The Parties only ask for a fair opportunity to contest the allegations against them. I truly hope you agree that they deserve such an opportunity and, in turn, grant this request to extend the hearing until August, 2008.

Sincerely,

OPPER & VARCO LLP

A handwritten signature in black ink, appearing to read "J. Michael Sowinski Jr.", is written over the printed name.

J. Michael Sowinski Jr.

/jms
Encl.
cc: Frank Melbourn

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April 11, 2008

**OPPER
&
VARCO
LLP**
THE ENVIRONMENTAL
LAW GROUP

Frank Melbourn
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353

Re: Public Records Act Request Concerning Copper in San Diego Bay.

Dear Mr. Melbourn:

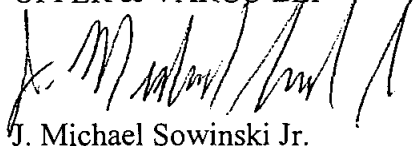
I am submitting this request pursuant to the California Public Records Act, Cal. Govt. Code §§ 6250, *et seq.* In accordance with that statute, please make available for review and copying the following documents:

1. All documents held by the San Diego Regional Water Quality Control Board containing information or data showing the concentration of copper in the San Diego Bay.
2. All documents held by the San Diego Regional Water Quality Control Board containing information or data related to the discharge, release, leaching or any emission of copper, authorized or unauthorized, into the San Diego Bay.

Please feel free to contact me with any questions about this request.

Sincerely,

OPPER & VARCO LLP



J. Michael Sowinski Jr.

/jms